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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/050,359 03/31/98 FOWLKES

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001444 HM12/0619  
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EXAMINER

WESSENDORF, T

ART UNIT

PAPER NUMBER

1627

DATE MAILED:

06/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/050,359

Applicant(s)  
Fowlkes et al

Examiner  
T. Wessendorf

Art Unit  
1627



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on 3/28/01

2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other: \_\_\_\_\_

Art Unit: 1627

In reference to the GENERAL MATTERS in the REMARKS (3/28/01, page 5), applicants state that a request (1/4/01) was made to vacate the previous Office action of 12/05/01. The 1/4/01 request indicated that the Office action is incomplete since an IDS filed on 10/21/99 was refused consideration for reasons set forth in section 3 of 11/29/99 Office action. As stated in said Office action, "the IDS filed on 10/19/98 fails to comply with 37 CAR 1.98(a)(2), which requires a legible copy of each US...patent; each publication ...the references have not been received by the examiner because copies were not provided." To date applicants have not submitted the requested copies. Therefore, it is not seen how the previous Office actions can be considered erroneous and be vacated, absent references on file for consideration. Nevertheless, to avoid prolonging the prosecution of the present application and for compact prosecution, applicants are given one month to submit the references for consideration including those additional references requested at page 16 of the Office action.

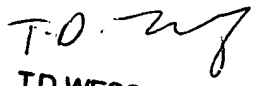
Certain papers related to this application may be submitted to Art Unit 1627 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 O.G. 61 (November 16, 1993) and 1157 O.G. 94 (December 28, 1993) (see 37 C.F.R. 1.6(d)). The official fax

Art Unit: 1627

telephone numbers of the Group are (703) 308-7924. NOTE: If applicant does submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. Wessendorf whose telephone number is (703) 308-3967. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

tdw  
6/15/00

  
T.D. WESSENDORF  
PRIMARY EXAMINER